

Introduced by Senator Cox
(Coauthor: Senator Torlakson)
(Coauthor: Assembly Member Jones)

February 18, 2005

An act to add and repeal Section ~~23538.5~~-22651.10 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 547, as amended, Cox. Vehicles: driving-under-the-influence (DUI); ~~probation~~: vehicle impoundment.

(1) Existing law authorizes a court to order the impoundment of a person's vehicle when the person has been convicted of violating certain provisions prohibiting driving a vehicle while under the influence of alcohol or any drug, or a combination of those, ~~if the conviction occurs within 5 years of a prior DUI conviction.~~

Existing law authorizes the removal of a vehicle in accordance with a specified procedure when a peace officer undertakes the arrest of a person who was driving or in control of a vehicle, for an alleged public offense and the officer is required or authorized to take the person into custody, and does take the person into custody.

This bill would establish a pilot program in Sacramento County that would ~~require~~ authorize, until January 1, 2009, a court to order the impoundment of a person's vehicle if the court grants probation by a peace officer for a first-time DUI offense and imposes as a condition of probation that the person enroll in, participate in, and successfully complete a licensed DUI program that is undertaken in combination with an intervention and a referral of the person to a drug and alcohol treatment program, as specified. The bill would require the county to report to the Legislature regarding the effectiveness of the pilot

program, as specified. To the extent that this requirement would impose additional duties on the county, the bill would establish a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 23538.5 is added to the Vehicle Code,~~
2 ~~to read:~~

3 ~~SECTION 1. Section 22651.10 is added to the Vehicle Code,~~
4 ~~to read:~~

5 ~~23538.5. (a) If a court grants probation under Section 23538~~
6 ~~and imposes as a condition of probation that the driver enroll in,~~
7 ~~participate in, and successfully complete a program licensed~~
8 ~~under Section 11836 of the Health and Safety Code, the court~~
9 ~~shall also order the impoundment of the person's vehicle for 30~~
10 ~~days.~~

11 ~~(b)~~

12 ~~22651.10. (a) (1) Notwithstanding any other provision of~~
13 ~~law, when a peace officer, as defined in Chapter 4.5~~
14 ~~(commencing with Section 830) of Title 3 of Part 2 of the Penal~~
15 ~~Code, arrests a person for an alleged violation of Section 23152~~
16 ~~or 23153, the peace officer may cause the removal and seizure of~~
17 ~~the motor vehicle driven by that person in the commission of that~~
18 ~~offense in accordance with this chapter.~~

19 ~~(2) A motor vehicle seized under paragraph (1) may be~~
20 ~~impounded for not more than 30 days.~~

21 ~~(3) The seizure and impoundment of a motor vehicle under~~
22 ~~paragraphs (1) and (2) shall be undertaken only if the county~~
23 ~~participates in a program that combines that seizure and~~
24 ~~impoundment with an intervention and a referral to a drug and~~

1 *alcohol treatment program immediately upon the arrest of the*
2 *person described in paragraph (1) or upon the delivery of that*
3 *person to a medical facility for treatment of any injuries.*

4 *(b) The registered and legal owner of a vehicle that is*
5 *removed and seized under subdivision (a) or their agents shall be*
6 *provided the opportunity for a storage hearing to determine the*
7 *validity of the storage in accordance with Section 22852.*

8 *(c) (1) Notwithstanding this chapter or any other provision of*
9 *law, an impounding agency shall release a motor vehicle to the*
10 *registered owner or his or her agent prior to the conclusion of*
11 *the impoundment period described in subdivision (a) under any*
12 *of the following circumstances:*

13 *(A) If the motor vehicle is a stolen motor vehicle.*

14 *(B) If the person alleged to have violated Section 23152 or*
15 *23153 was not authorized by the registered owner of the motor*
16 *vehicle to operate the motor vehicle at the time of the commission*
17 *of the offense.*

18 *(C) If the registered owner of the motor vehicle was neither*
19 *the driver nor a passenger of the vehicle at the time of the*
20 *alleged violation of Section 23152 or 23153, or was unaware*
21 *that the driver was using the vehicle to engage in the unlawful*
22 *activity described in Section 23152 or 23153.*

23 *(D) If the legal owner or registered owner of the motor vehicle*
24 *is a rental car agency.*

25 *(E) If, prior to the conclusion of the impoundment period, a*
26 *citation or notice is dismissed under Section 40500, criminal*
27 *charges are not filed by the district attorney because of a lack of*
28 *evidence, or the charges are otherwise dismissed by the court.*

29 *(2) A motor vehicle shall be released pursuant to this*
30 *subdivision only if the registered owner or his or her agent*
31 *presents a currently valid driver's license to operate the vehicle*
32 *and proof of current vehicle registration, or if ordered by a*
33 *court.*

34 *(3) If, pursuant to subparagraph (E) of paragraph (1) a motor*
35 *vehicle is released prior to the conclusion of the impoundment*
36 *period, neither the person charged with a violation of Section*
37 *23152 or 23153 nor the registered owner of the motor vehicle is*
38 *responsible for towing and storage charges nor shall the motor*
39 *vehicle be sold to satisfy those charges.*

1 (d) A motor vehicle seized and removed under subdivision (a)
2 shall be released to the legal owner of the vehicle, or the legal
3 owner's agent, on or before the 30th day of impoundment if all of
4 the following conditions are met:

5 (1) The legal owner is a motor vehicle dealer, bank, credit
6 union, acceptance corporation, or other licensed financial
7 institution legally operating in this state, or is another person,
8 not the registered owner, holding a security interest in the
9 vehicle.

10 (2) The legal owner or the legal owner's agent pays all towing
11 and storage fees related to the impoundment of the vehicle. Lien
12 sale processing fees shall not be charged to a legal owner who
13 redeems the vehicle on or before the 15th day of impoundment.

14 (3) The legal owner or the legal owner's agent presents
15 foreclosure documents or an affidavit of repossession for the
16 vehicle.

17 (e) (1) The registered owner or his or her agent is responsible
18 for all towing and storage charges related to the impoundment,
19 and any administrative charges authorized under Section
20 22850.5.

21 (2) Notwithstanding paragraph (1), if the person is convicted
22 of a violation of Section 23152 or 23153 and was not authorized
23 by the registered owner of the motor vehicle to operate the motor
24 vehicle at the time of the commission of the offense, the court
25 shall order the convicted person to reimburse the registered
26 owner for towing and storage charges related to the
27 impoundment, and administrative charges authorized under
28 Section 22850.5 incurred by the registered owner to obtain
29 possession of the vehicle, unless the court finds that the person
30 convicted does not have the ability to pay all or part of those
31 charges.

32 (3) If the vehicle is a rental vehicle, the rental car agency may
33 require the person to whom the vehicle was rented to pay all
34 towing and storage charges related to the impoundment and any
35 administrative charges authorized under Section 22850.5 that
36 were incurred by the rental car agency in connection with
37 obtaining possession of the vehicle.

38 (4) The owner is not liable for towing and storage charges
39 related to the impoundment if acquittal or dismissal occurs.

1 (5) *The vehicle may not be sold prior to the defendant's*
2 *conviction.*

3 (6) (A) *The impounding agency is responsible for the actual*
4 *costs incurred by the towing agency as a result of the*
5 *impoundment should the registered owner be absolved of liability*
6 *for those charges pursuant to paragraph (3) of subdivision (c).*

7 (B) *Notwithstanding subparagraph (A), nothing shall prohibit*
8 *an impounding agency from making prior payment arrangements*
9 *to satisfy the requirement described in subparagraph (A).*

10 (f) On or before January 1, 2009, the county shall report to the
11 Legislature regarding the effectiveness of the pilot program
12 authorized under this section in reducing the number of first-time
13 violations and repeat offenses of Section 23152 *or* 23153 in the
14 county.

15 ~~(e)~~

16 (g) This section applies only to the County of Sacramento.

17 ~~(d)~~

18 (h) This section shall remain operative only until January 1,
19 2009.

20 ~~(e)~~

21 (i) This section shall remain in effect only until January 1,
22 2010, and as of that date is repealed, unless a later enacted
23 statute, that is enacted before January 1, 2010, deletes or extends
24 that date.

25 SEC. 2. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.